

EXHIBIT 2

Michael Schwade

From: Michael Schwade
Sent: Monday, April 25, 2011 4:30 PM
To: 'GarfieldH@gtlaw.com'
Cc: Albert Watkins; ELINGSR@gtlaw.com
Subject: RE: 11-420 The South Butt - Winding Up

Heidi,

[REDACTED]

MICHAEL D. SCHWADE
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Clayton, Missouri 63105
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From: GarfieldH@gtlaw.com [mailto:GarfieldH@gtlaw.com]
Sent: Monday, April 25, 2011 2:16 PM
To: Michael Schwade
Cc: Albert Watkins; ELINGSR@gtlaw.com
Subject: RE: 11-420 The South Butt - Winding Up

Mike,

We are in receipt of the signed TSB Affidavit, dated 4/20/11 and sent to us on 4/24/11. This Affidavit is not in compliance with the Settlement Agreement nor the parties' discussions in email and letters over the past several weeks. As a threshold matter, the signed Affidavit addresses only selected revisions from the 4/15/11 version of the Affidavit I sent to you. Neither your email nor the Affidavit addresses issues raised in Roxanne Elings' 4/12/11 letter to Albert Watkins, to

which we have yet to receive a substantive response, nor my follow up revisions and comments to you by emails dated 4/20/11 and 4/22/11. When we began working on this Affidavit in March, The North Face anticipated that it would be collaborative and your failure to respond to or even acknowledge concerns and issues raised by The North Face in advance of signing the Affidavit makes it difficult for The North Face to consider this signed Affidavit "final." Your email yesterday with the signed Affidavit is the first communication we have received from you since April 13, 2011. Accordingly, the Affidavit-as-signed is incomplete as it fails to address issues raised in The North Face's unanswered correspondence dated 4/12/11, 4/15/11, 4/20/11 and 4/22/11.

I address specific issues below:

First, your 4/24/11 letter states that TSB is entitled to receive the sum [REDACTED] from The North Face on or before May 24, 2011 per Section 2.2 of the Settlement Agreement. In light of unaddressed breaches by your clients of the Agreement, as set forth in Roxanne's 4/12/11 letter to which TSB never responded (as well as further breach by way of new retailers not disclosed to The North Face pursuant to the Agreement), The North Face has stated that it will pay the [REDACTED] to TSB within ninety days of receipt of the final Affidavit. This additional time serves as a safeguard against further breach and gives The North Face sufficient time to ensure your clients' full compliance and cooperation.

[REDACTED]

[REDACTED]

Fourth, Paragraph 24 of TSB's 4/24/11 version is also missing language from Paragraph 14 of the last draft provided to you by The North Face regarding social media sites unknown to The North Face at the time of the Agreement. We included this provision because the Agreement attempts to identify online sites affiliated with TSB and it is clear, as set forth in Roxanne's 4/12/11 letter, that TSB's social media presence has not been limited only to those sites known or even in existence in April 2010 when the Agreement was signed. For that matter, TSB's signed Affidavit sent to us on 4/24/11 fails to include several sites identified by The North Face in recent correspondence, including:

<https://www.facebook.com/pages/The-South-BUTT/188502114522413>;

<https://www.facebook.com/media/set/fbx/?set=a.254760492977.141379.254755112977#!/pages/The-South-Butt-Sounds-Better-Than-The-North-Face/254755112977>;

<https://www.facebook.com/pages/The-South-Butt/245123559871?sk=info#!/pages/The-South-Butt/245123559871?sk=wall>; and

www.facebook.com/pages/The-Butt-Face/128212270567649. The final site is the page identified in Roxanne's 4/12/11 letter that is clearly affiliated with James Winkelmann Jr. While current versions of the page no longer appear to be available on Facebook, the absence of current links does not alleviate TSB of its responsibility to identify all social media sites in TSB's possession, custody or control "at any time," including as set forth in Paragraph 24 of TSB's 4/24/11 version of the Affidavit. To the extent that none of these sites are or have been affiliated with TSB at any time, we request that the Affidavit include a provision representing the same by TSB.

For your convenience, I have again attached a draft Affidavit with all of the language proposed and contemplated by The North Face to-date (including most additions and formatting changes included in TSB's 4/24/11 version of the Affidavit). It would be most efficient for us to discuss changes to the Affidavit, whether by email or phone, prior to your clients executing an incomplete Affidavit. I look forward to hearing from you.

Best regards,

Heidi

Heidi

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From: Michael Schwade [mailto:mschwade@kwklaw.net]
Sent: Sunday, April 24, 2011 11:17 AM
To: Garfield, Heidi (Assoc-NY-IP-Tech); Elings, Roxanne (Shld-NY-IP-Tech)
Cc: Albert Watkins
Subject: 11-420 The South Butt - Winding Up

If you should have any difficulty opening this attachment, please contact me immediately. Thank you.

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